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Mayor

Christina A. Varner
Executive Director

**MINUTES OF THE REGULAR MEETING OF
THE SAN FRANCISCO RESIDENTIAL RENT
STABILIZATION & ARBITRATION BOARD**

Tuesday, December 13, 2022
at 6:00 p.m.

Remote Meeting via video and teleconferencing
<https://bit.ly/3im81RF>

Public Comment Dial In Number: (415) 655-0001
Access Code: 2495 296 3337 / Webinar Password: RENT (7368 from phones)

On February 25, 2020, Mayor London Breed declared a state of emergency in regards to COVID-19. Thereafter, Governor Newsom issued a statewide order for all residents to shelter-in-place, and following that, numerous orders of the county health officer and supplemental Mayoral proclamations and directives were issued to slow and reduce the spread of COVID-19.

In several Mayoral proclamations and memorandums, the Mayor and City Attorney detailed emergency orders suspending select laws applicable to boards, commissions, and other policy bodies, and permitting boards and commissions to meet, so long as the meetings are held remotely. Additionally, at its November 8, 2022 meeting, the Rent Board Commission made findings to allow teleconferenced meetings under California Government Code Section 54953(e). Therefore, the Rent Board Commission meetings will be held via videoconferencing and will allow for remote public comment until further notice.

The Commission strongly encourages interested parties to submit their comments in writing, by 12:00 noon on December 13, 2022 to rentboard@sfgov.org. The meeting will be streamed live at 6:00 p.m. at <https://bit.ly/3im81RF>. The public comment call in instructions are available on the Rent Board's website at <https://sf.gov/public-body/rent-board-commission>.

Please visit the Rent Board's website for ongoing updates during the COVID-19 emergency.

I. Call to Order

President Gruber called the meeting to order at 6:09 p.m.

II. Reading of Ramaytush Ohlone Land Acknowledgment

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Commissioner Qian read the Ramaytush Ohlone Land Acknowledgment.

III. Roll Call

Commissioners Present: Crow; Gruber; Haley; Hung; Qian;
Sawney; Tom; Wasserman.

Commissioners Not Present: Klein; Mosbrucker.

Staff Present: Brandon; Flores; Koomas; Varner.

IV. Approval of the Minutes

MSC: To approve the minutes of November 8, 2022.
(Wasserman/Sawney: 7-0; Qian abstained)

V. Remarks from the Public

A. Michael Vejraska, the tenant at 190 O'Farrell Street #512 (AT220055), told the Board that his case was dismissed because he missed the hearing date by "one day". He stated that that he's suffered from multiple medical issues over the past year, and has difficulty communicating by phone, which is why he asked Rent Board staff to text him information about his case. The tenant stated that the problems happening in his building are very serious and asked the Board to grant him a new hearing date.

B. Craig Berendt, a property manager for the landlord at 801 Corbett Avenue (AT220050), stated that no shared housing services provided to the tenants would be removed as a result of the ADU construction. He said that that the area described as a "loading zone" by the tenant appellant is not a loading zone and that no tenants have access to the building storeroom in the basement of the building.

C. Joe Peters, a representative for the landlord at 801 Corbett Avenue (AT220050), stated that only one tenant appealed the ALJ's decision, and that the comments submitted by neighbors in adjacent buildings have no relevance to the appeal. Mr. Peters stated that all of the proposed parking spaces in the landlord's ADU construction plans are virtually the same size as the existing spaces, which are equal to, or larger, than the parking space dimensions required by the Planning Code. Mr. Peters stated that although the building's existing garage can be challenging to maneuver, the design plan for the work accounts for maneuverability, which will not be substantially impacted by the changes.

D. Roger Dawson, the tenant at 801 Corbett Avenue #15 (AT220050), told the Board that tenant opposition to his landlord's planned ADU construction is what inspired the recent legislation that allows for Rent Board review of ADU plans. Mr. Dawson stated that his case was one of the first under the new law, and that the ALJ took a "narrow and rigid" view of the law that ignored the tenants' objections related to noise and maneuverability. He stated that his research revealed that in cases decided by different Rent Board ALJs, with similar facts, the ALJ upheld the tenants' objections related to parking maneuverability. Mr. Dawson also stated that the author of the ADU legislation itself, an aide for Supervisor Mandelman, confirmed that the ALJ should have

considered any temporary impacts on the tenants during the construction work, including the anticipated loss of quiet enjoyment and other disruptions. He stated that if the landlord is allowed to proceed with construction, several disabled seniors will be unable to park their cars in the garage, and will probably be forced to leave San Francisco.

E. Antonio Drolapas, a landlord at 785 Valencia St (AL220053), told the Board that the exact same claim raised by the tenant in his current petition was litigated in a prior case, which resulted in a final judgement. He stated that the tenant's current claim was therefore barred by the doctrines of res judicata and collateral estoppel, and should not have been allowed to proceed.

VI. Consideration of Appeals

A. 190 O'Farrell Street #512

AT220055

The tenant's petition alleging decreased housing services was dismissed due to the tenant's non-appearance at the hearing. On appeal, the tenant states that he has multiple medical issues and requests that a new hearing be scheduled.

MSC: To accept the appeal and remand the case to the ALJ for a new hearing.
Should the tenant again fail to appear, absent extraordinary circumstances,
no further hearings will be held.
(Wasserman/Qian: 5-0)

B. 801 Corbett Avenue #15

AT220050

The tenants' objection to the landlord's ADU Declaration was denied. The ALJ found that the landlord's proposed ADU construction project, as proposed, would not result in a substantial reduction in housing services pursuant to Rent Ordinance Section 37.2(r). On appeal, the tenant of one unit argues in part that the relocated parking spaces will be inaccessible to the tenants and that the ALJ failed to consider whether the tenants' right to quiet enjoyment will be impacted by the work.

Commissioner Wasserman recused himself from consideration of this appeal because he has an ownership interest in the landlord's property management company.

MSC: To deny the appeal.
(Tom/Gruber: 3-2; Crow, Qian dissenting)

C. 140 - 20th Avenue #201

AT220051

The tenant's application for a deferral of an operating and maintenance expense increase (O&M) based on financial hardship was filed 7 days late and was thus denied as untimely. On appeal, the tenant asks the Board to reconsider his hardship application and argues that the delay was minor, and that he continues to experience financial hardship.

MSF: To deny the appeal.
(Wasserman/Gruber: 2-3; Crow, Hung, Qian dissenting)

MSC: To find good cause for the late filing and to remand the case to the ALJ to issue the decision.

(Crow/Qian: 3-2; Gruber, Wasserman dissenting)

D. 1717 Taraval Street

AT220052

The tenant's petition alleging decreased housing services due to an inaccessible bedroom was denied. The ALJ found that access to the second bedroom was not a housing service provided by the landlord or included in the tenant's base rent. On appeal, the tenant claims that the decision contains factual inaccuracies.

MSC: To deny the appeal.

(Wasserman/Gruber: 5-0)

E. 785 Valencia Street

AL220053

The tenant's petition alleging decreased housing services was granted in part. The ALJ held that the landlord was liable for any amounts paid by the tenant to transport the refuse bins to the street for collection. The landlord argues on appeal that the ALJ was biased and that the decision is inconsistent with a prior Rent Board decision concerning a similar claim. He further argues that the tenant lied and submitted false documents, and that the tenant has sole responsibility for the payment of refuse service and transportation of refuse bins.

Commissioner Wasserman recused himself from consideration of this appeal because he represents the landlord in other matters.

MSC: To deny the appeal.

(Qian/Crow: 3-2; Gruber, Tom dissenting)

F. 2785 Green Street #1

AT220054

The tenant's petition alleging decreased housing services was granted in part, and the landlords were found liable in the amount of \$2,100.00 for insufficient heat during a seven month period beginning in May of 2021. On appeal, the tenant argues that the unit was without adequate heat since 2002, as evidenced by her written complaints and a notice of code violation that issued in 2010. She further argues that the new Mini-Split Heat System is an eyesore that decreases the useable square footage of her unit.

MSC: To deny the appeal.

(Wasserman/Gruber: 5-0)

V. Remarks from the Public (cont.)

A. Michael Vejraska, the tenant at 190 O'Farrell Street, #512 (AT220055), thanked the Board for their consideration and apologized for the illegibility of his handwriting on appeal documents.

VII. Public Hearing

7:00 p.m. Proposed Amendments to Rules and Regulations Part II, Section 2.21 – Parental Leave Policy

The Commissioners opened a public comment period for members of the public to speak specifically about proposed Rules and Regulations Sections Part II, Section 2.21. Seeing that no member of the public wanted to speak during the public comment period, the public comment period was closed. The Commissioners then had no discussion regarding the proposed amendments. Seeing that there was no discussion, the Commissioners made and voted upon the following motion:

MSC: To adopt proposed Rules and Regulations Part II, Section 2.21.
(Wasserman/Gruber: 8-0)

VIII. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. Articles from the SF Chronicle and SFist.
- B. Monthly workload statistics for October 2022.
- C. Superior Court Order denying writ petition in Case No. CPF-22-517723.

IX. Director's Report

A. Rent Board Operations Update During COVID-19 Health Emergency

Executive Director Varner told the Board that in regards to current departmental operations, the office remains open to the public at reduced hours for the past month, in line with City guidance and with support from the public. She said that the phone counseling line remains open to the public and busy as usual, with the hours of 9:00 a.m. – 12 noon and 1:00 p.m. – 4:00 p.m., Monday through Friday, excluding holidays, and that staff continue to work on a hybrid basis both at home and in the office. Director Varner explained that the department continues to work with DPW Architecture and Bureau of Building Repair and other collaborators on the new space on the 6th and 7th floors.

Executive Director Varner explained that in regards to the Housing Inventory and Rent Board Fee, the 2023 Rent Board Fee & Housing Inventory Informational Notices have been mailed out to all property owners informing them of their requirement to report into the Housing Inventory, their anticipated March 1 Rent Board fee obligation, how to request an exemption from the Rent Board fee if they believe they should be exempt, and how to report into the Housing Inventory. She reminded the public that the Housing Inventory reporting deadline for owners of all properties is March 1, 2023, that the last day to request an exemption from the 2023 Rent Board Fee is Monday, December 19. She said that if an owner believes they should have received a 2023 Informational Notice and did not receive one, they should contact the

Rent Board Inventory & Fee Unit. And finally, Director Varner said, the department expects that delinquent 21-22 Rent Board Fee obligations would be sent to collections in January.

Executive Director Varner provided an update in regards to legislation, and told the Commissioners that Board of Supervisors (BOS) File No. 221021, which would make changes to the Planning Code's HOME-SF Program (Home Ownership Means Equity – San Francisco) is still before the Land Use and Transportation Committee. She said that the HOME-SF Program allows density bonuses and zoning code modifications to new development projects that agree to provide certain amounts of affordable housing, and that this legislation would expand the HOME-SF program to projects that agree to subject the residential units in the development to rent control under the Rent Ordinance instead of providing additional on-site affordable units. Director Varner reported that California Assembly Bill 12 was introduced by assemblymember Matt Haney of San Francisco on 12/5/22 and is awaiting committee action. She said that this legislation would amend California Civil Code Section 1950.5 to cap security deposits to an amount equal to no more than one month's rent, regardless of whether the property is furnished or unfurnished.

Executive Director Varner briefly touched upon a few items that Commissioner Sawney had brought forward at the October meeting and further discussed at the November meeting. She said that regarding Digital Distribution of Meeting Material, staff will send meeting materials and documents to the Commissioners via OneDrive, using their sfgov email addresses, commencing with the January 2023 meeting. In regards to the department's ongoing racial equity work, Director Varner explained that the department had a goal that all members of the Board would attend a racial equity and implicit bias workshop, and that it was decided on by this Board to attend a City & County Department of Human Resources workshop. Director Varner said that there are 4 commissioners who have not yet attended and would contact those Commissioners to schedule their workshops. Finally, Executive Director Varner reminded the Board that a staff and commission holiday party would be on December 15.

X. Old Business

A. AB 361, Mayoral Directive, and Future Remote Commission Meetings

Executive Director Varner stated that during previous Board Meetings, the Commissioners made findings to allow teleconferenced meetings pursuant to California Government Code 54953(e), and that the Commissions must make a similar finding at least once every 30 days to continue having teleconferenced meetings. After Executive Director Varner read the Board's findings into the record, Commissioner Wasserman made a motion, seconded by Commissioner Tom, to make a resolution making findings to allow a teleconferenced meeting on January 17, 2023 pursuant to California Government Code 54953(e).
(Wasserman/Qian: 8-0)

XI. New Business

There was no new business.

XII. Calendar Items

January 17, 2023 – remote meeting via WebEx

A. Consideration of Appeals

11 appeal considerations

Reader of the Ramaytush Ohlone Land Acknowledgment – Commissioner Sawney.

XIII. Adjournment

President Gruber adjourned the meeting at 7:52 p.m.